THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7546 OF 1995

ORAL ORDER:

This Writ Petition is filed seeking a declaration that the action of the 1st respondent-Municipal Corporation, Warangal, in not initiating any action against the 2nd respondent for the alleged violation of the Building Rules, Bye-laws, Zonal Regulations as well as the provisions of the A.P. Municipalities Act, 1965 by constructing the building without leaving the set back as per the sanctioned plan as arbitrary, illegal, and consequently to direct the 1st respondent to take appropriate action by pulling down the unauthorized constructions made in contravention of the Rules and Regulations.

This Court while directing *Rule nisi,* in W.P.M.P.No.9322 of 1995, passed an order on 18.4.1995 as under:

> "Interim direction to the first respondent to take appropriate action against the second respondent in case he has made any construction in contravention of any statutory provision or permission accorded to him."

Thereafter, a counter-affidavit has been filed by the 1st respondent specifying the deviation from the sanctioned plan by the 2nd respondent and also stating that the respondent-Corporation has already issued a notice under Section 636 of the A.P. Municipal Corporations Act, and that they will take necessary action in accordance with the statutory provisions. In the meanwhile, the 2nd respondent filed O.S.No.513 of 1995 on the file of the Court of the II Additional Junior Civil Judge, Warangal, seeking perpetual injunction, restraining the Municipal Corporation as well as the writ petitioner from interfering with his possession over the said building and restraining them from pulling down the said building. Initially, it appears that temporary injunction was granted, and when the said fact was brought to the notice of this Court, and when an application was filed to vacate the order, this Court having heard both the parties, modified the interim

order dated 18.4.1995, to the following effect:

> "It is noticed that action has been initiated by the 1st respondent-Corporation pursuant to the interim directions of this court, but in view of the Interlocutory orders passed by the II Addl. District Munsif, Warangal, the 1st respondent-Municipal Corporation is not in a position to take further action in the matter. Accordingly, the interim directions issued on 18.4.1995 are modified to the extent that after the injunction against the 1st respondent-Corporation is vacated, the 1st respondent-Corporation shall take appropriate action as directed by this Court in its interim order dated 18.4.1995. Interim order dated 18.4.1995 is modified to that extent and the vacate stay petition is ordered accordingly."

When the matter is taken up for consideration, the learned counsel for the petitioner submitted that subsequently O.S.No.513 of 1995 was dismissed as not pressed on 31.7.1998 and thereafter on a request made by the 2nd respondent, the 1st respondent-Corporation has regularized the constructions made in deviation of the sanctioned plan. The learned counsel has also submitted that questioning the said action of the 1st respondent-Corporation, the petitioner filed W.P.No.23786 of 1999, which is still pending on the file of this Court.

From the above facts, it is clear that the 1st respondent-Corporation has initiated action against the 2nd respondent and the regularization ordered by the Municipal Corporation is the subject matter of W.P.No.23786 of 1999. In the circumstances, nothing survives for adjudication in this writ petition on merits, particularly in view of the interim orders granted by this Court on 18.4.1995.

Accordingly, the writ petition is dismissed. No costs.

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(G. ROHINI, J.)

22nd August, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7546 OF 1995

22nd August, 2006.

Between:

Dr. I. Venkat Rao. .. Petitioner.

And

Municipal Corporation of Warangal, represented by its Commissioner, S.V.N. Road, Warangal and another. .. Respondents.